IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

DOCKET NO. 3:13-cv-00344-MOC-DSC

)
))
MEMORANDUM AND ORDER
)
)
)
)

THIS MATTER is before the Court on "Defendant's Second Motion for Sanctions, or in the Alternative, to Compel Plaintiff's and Non-Party Dr. Nancy Miller's Appearance for Depositions," Doc. 35, and "Defendant's Motion to Amend Pretrial Order and Case Management Plan to Extend the Deadline to File Dispositive Motions," Doc. 37, both filed March 24, 2014, and the parties' associated briefs and exhibits. See Docs. 36, 41, 42, 43 and 44. These Motions have been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §636(b)(1).

The Court has carefully examined the record, the parties' arguments and the applicable authorities. For the reasons stated in its Motions and supporting briefs, the Court grants Defendant's Motions.

Courts generally have broad discretion in imposing sanctions under Rule 37 of the Federal Rules of Civil Procedure. National Hockey League v. Metropolitan Hockey Club, Inc., 427 U.S. 639 (1976). For the reasons stated in its Motion and supporting brief, the Court finds that sanctions are warranted here for Plaintiff's continued obstructive conduct. The Court warns Plaintiff that failure to comply fully with any of the Court's Orders, the Local Rules, or the Rules of Civil

Procedure may result in the further imposition of sanctions, which may include <u>dismissal of</u>

the Complaint with prejudice.

NOW THEREFORE, IT IS ORDERED:

1. Defendant's Second Motion for Sanctions, or in the Alternative, to Compel Plaintiff's

and Non-Party Dr. Nancy Miller's Appearance for Depositions," Doc. 35, is **GRANTED**. Within

seven (7) calendar days of the date of this Order, Defendants shall schedule the depositions of

Plaintiff and Dr. Miller. Plaintiff and Dr. Miller are ordered to appear and cooperate in their

depositions as scheduled by Defendant.

2. Plaintiff is ordered to pay Defendant the reasonable attorney's fees and costs incurred

in obtaining this Order and in reopening the depositions of Plaintiff and Dr. Miller, such amounts

to be determined by the Court after reviewing an affidavit submitted by Defendant's counsel within

seven (7) calendar days of the date of this Order.

3. "Defendant's Motion to Amend Pretrial Order and Case Management Plan to Extend

the Deadline to File Dispositive Motions," Doc. 37, is **GRANTED**. The dispositive motion

deadline is extended thirty (30) calendar days from the date of this Order.

4. The Clerk is directed to send copies of this Order to counsel for the parties,

including but not limited to moving counsel; and to the Honorable Max O. Cogburn, Jr.

SO ORDERED.

Signed: May 6, 2014

David S. Cayer

United States Magistrate Judge